

care and skill and had carelessly treated the fractured bones. The defendant physician in his answer denied the alleged malpractice. In addition, he raised the affirmative defense that in the prior court action against the operator of the car, all elements of damage to the plaintiff had been considered and, therefore, the resultant judgment and satisfaction fully released and discharged not only the operator of the car, but also the physician from all responsibility for any damages sustained by the plaintiff. Even though the physician had not been a party to the prior action, the Court upheld this defense, ruling that the release given by the plaintiff to the operator of the car barred an action for malpractice against the physician who had treated plaintiff's injuries in an allegedly negligent manner.

The Court said:

"Plaintiff was at liberty to sue Wubben (operator of the car) for the damages she suffered in the automobile collision. But when she elected to sue him, her election was her decision to recover all damages resulting from his negligence and this included the aggravation to her injuries as a result of the physician's neglect. Having proceeded against Wubben, her judgment against that gentleman is a bar to her recovery against the doctors whose negligence might have aggravated the injuries received from Wubben's automobile. Evidence of plaintiff's condition subsequent to the treatment by defendants and her condition as it was anticipated in the future, must be deemed to have been a part of the basis of the jury's verdict."

The theory upon which the decision is based is that a person may not recover twice for the same injuries. Since the jury in the action against the operator of the car must be held to have considered her present condition and her anticipated future condition resulting directly from the accident and the alleged negligence of the physician, plaintiff had already recovered for all damages she had suffered.

In passing, it might be noted that this rule does not prevail in cases before the Industrial Accident Commission. In *Smith vs. Coleman*, 46 Cal. App. (2d) 507, the Court held that where an injured workman recovered damages for an industrial injury from his employer and insurance carrier before the Industrial Accident Commission, he could subsequently maintain an action for malpractice against a physician who had treated the injury.

LETTERS†

Concerning Medical Literature Sent to Military Camps in California—Letter of Appreciation:

STATION HOSPITAL

Camp Beale, California.

September 17, 1943.

California Medical Association,
450 Sutter Street,
San Francisco, California.

We received today by express the package of books and periodicals that the Association so generously sent us. We have a small library here at Camp Beale, but at the present time it is entirely inadequate for our needs. We certainly welcome any type of medical volumes and periodicals.

The Commanding Officer, Lt. Col. Charles H. Woodruff, wishes to personally thank the Association members for their thoughtfulness in helping to augment our medical library.

Sincerely yours,

(Signed) ALEXANDER G. BARTLETT,
Major, M. C., Chief of Medical Branch.

† CALIFORNIA AND WESTERN MEDICINE does not hold itself responsible for views expressed in articles or letters when signed by the author.

Concerning Obligations to Military Colleagues:

—, September 12.

Dear Doctor:

Your editorials in August CALIFORNIA AND WESTERN MEDICINE just reached my desk.

I feel that upon behalf of all my fellow officers we owe you a vote of thanks for your thoughtful consideration of our problems.

In my position, I hear the gripes and learn of difficulties of medical officers, and your ray of sunshine for the future is a big help to these officers.

These men in overseas units who will soon depart for combat areas are not worried about what will happen to them in the Army, but are most concerned about what is to come after they return home, if they ever do. Many of them have expressed to me their bewilderment and have wondered if it wouldn't be better for them to start anew in another location so that they wouldn't be ever faced with the other civilian's practice. To see the stay-at-homes have all the business and to be compelled to live on the crumbs is more than they care to face. Having gone through it once before, I personally know how it will be.

I am, at this writing, officer of a 1,000-bed, . . . overseas general hospital. Our departure is not too long distant. We have a group of the finest officers in the Army. Men from the leading medical schools all over the country. We have eight American Board diplomates in the various specialties. Many are best men of their communities, professors in universities and chiefs of staff of large hospitals. The average age of our senior officers is 46.

Please know how much we appreciate what those of you who are understanding are doing for those of us who are in the service.

Sincerely,

Concerning Item on Scarcity of Women Physicians:

UNIVERSITY OF CALIFORNIA

San Francisco, September 17, 1943.

Editor,
California and Western Medicine,

Addressed.

Dear Editor:

In your August issue, on page 128, is an excerpt from the *Berkeley Gazette* regarding the scarcity of women doctors to enter military service now that they are eligible to do so. According to the March, 1943 issue of the *Medical Woman's Journal*, there are 2,146 women doctors in practice within the required age limits acceptable for military service. It is not stated how many of this number would not be acceptable for military service because their present work is essential or because they have children under 16 years of age.

The Sparkman Bill was passed in April, 1943. There has not been a considerable length of time for the clearance of papers commissioning women up to July 1, and transferring those in the services they were then eligible to. Under the present medical emergency, I think a quotation from Dr. R. B. Spencer, Director of the National Cancer Institute, appropriate: "Our national policy has been shortsightedness and ungenerous toward women who have had the urge to make their social contribution in the field of medicine." We have a limited number of women acceptable in medical schools and frequently discourage their progress. Up until the passage of the Sparkman Bill a woman doctor was unable to do equal work for equal rank and pay in the military service.

Very truly yours,

(Signed) ISABELLA H. PERRY, M. D.